

# SENATE RECORD VOTE ANALYSIS

105th Congress  
1st Session

**Vote No. 14**

February 25, 1997, 6:00 pm  
Page S-1546 Temp. Record

## BALANCED BUDGET AMENDMENT/"Off-Budget" Social Security

**SUBJECT:**      **Balanced Budget Constitutional Amendment . . . S. J. Res. 1. Hatch motion to table the Reid amendment No. 8.**

**ACTION: MOTION TO TABLE AGREED TO, 55-44**

**SYNOPSIS:**      As reported, S. J. Res. 1, the Balanced Budget Constitutional Amendment: will require a three-fifths majority vote of both Houses of Congress to deficit spend or to increase the public debt limit; will require the President's annual proposed budget submission to be in balance; and will require a majority of the whole number of each House to approve any bill to increase revenue. Congress will be allowed to waive these requirements for any fiscal year in which a declaration of war is in effect. Congress will enforce and implement this amendment by appropriate legislation. The amendment will take effect in fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later. The States will have 7 years to ratify the amendment. For related debate, see 103rd Congress, second session, vote Nos. 47-48, 104th Congress, first session, vote Nos. 62-63 and 65-98, and 104th Congress, second session, vote No. 158.

**The Reid amendment** would add the following at the end of section 7: "The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds (as and if modified to preserve the solvency of the Funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article." (At present, the first trust fund provides Social Security benefits to retirees; the second fund provides Social Security benefits to disabled people.)

Debate was limited by unanimous consent. Following debate, Senator Hatch moved to table the Reid amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

**Those favoring** the motion to table contended:

The Reid amendment would purportedly "protect" Social Security by placing its outlays and receipts constitutionally off-budget. However, rather than protecting Social Security, this action would destroy it. It would also serve to gut the balanced budget

(See other side)

YEAS (55)			NAYS (44)			NOT VOTING (1)	
Republicans (53 or 96%)	Democrats (2 or 5%)		Republicans (2 or 4%)	Democrats (42 or 95%)		Republicans (0)	Democrats (1)
Abraham	Helms	Kerrey	McCain	Akaka	Hollings		Inouye- <sup>2</sup>
Allard	Hutchinson	Robb	Specter	Baucus	Johnson		
Ashcroft	Hutchison			Biden	Kennedy		
Bennett	Inhofe			Bingaman	Kerry		
Bond	Jeffords			Boxer	Kohl		
Brownback	Kempthorne			Breaux	Landrieu		
Burns	Kyl			Bryan	Lautenberg		
Campbell	Lott			Bumpers	Leahy		
Chafee	Lugar			Byrd	Levin		
Coats	Mack			Cleland	Lieberman		
Cochran	McConnell			Conrad	Mikulski		
Collins	Murkowski			Daschle	Moseley-Braun		
Coverdell	Nickles			Dodd	Moynihan		
Craig	Roberts			Dorgan	Murray		
D'Amato	Roth			Durbin	Reed		
DeWine	Santorum			Feingold	Reid		
Domenici	Sessions			Feinstein	Rockefeller		
Enzi	Shelby			Ford	Sarbanes		
Faircloth	Smith, Bob			Glenn	Torricelli		
Frist	Smith, Gordon			Graham	Wellstone		
Gorton	Snowe			Harkin	Wyden		
Gramm	Stevens						
Grams	Thomas						
Grassley	Thompson						
Gregg	Thurmond						
Hagel	Warner						
Hatch							

**EXPLANATION OF ABSENCE:**  
1—Official Business  
2—Necessarily Absent  
3—Illness  
4—Other

**SYMBOLS:**  
AY—Announced Yea  
AN—Announced Nay  
PY—Paired Yea  
PN—Paired Nay

amendment. Finally, it would trivialize and weaken the Constitution.

In the 104th Congress, several Senators who had previously supported the language of this Balanced Budget Constitutional Amendment suddenly claimed that they could no longer support its passage because it did not contain an exemption for Social Security. Had they not latched on to this excuse, which we are certain they sincerely hold, the amendment would have passed easily 2 years ago. This year, going by the number of Senators who were elected on their solemn promise that they would vote for the Balanced Budget Constitutional Amendment, one would suspect again that it would pass easily. Unfortunately, it seems as though some of those Senators-elect did not mean the language of this particular amendment, which has repeatedly been considered by Congress. Perhaps coincidentally, every time the Balanced Budget Amendment gets close to passing a few more Democrats search their souls and find that they do not really support it. Meanwhile, the debt grows. When we had this debate last Congress the debt was \$4.8 trillion. By the end of this year it will be \$5.4 trillion.

We believe that a few of the supporters of the Reid amendment actually want to pass a balanced budget amendment, and we also believe that they want to save Social Security. We urge these Senators to look at this matter realistically. They know that their amendment has no chance of passing; they know that most supporters of a balanced budget amendment believe that their amendment would cause utter disaster. If they refuse to vote for the balanced budget amendment without the Reid amendment, then it will not pass and Congress will continue to spend uncontrollably. The country will soon reach economic collapse. Congress will then have to monetize the debt, which means that it will print reams of money to pay its creditors. The result will be a severe devaluation of the dollar. For senior citizens living on fixed incomes a monetization of the debt will severely slash their standards of living. It will also destroy the value of the Social Security Trust funds because they are comprised of Treasury notes. Even if by some miracle the country limps along until Social Security is officially insolvent by 2029, how do our colleagues suppose a Nation crippled by its earlier profligacy will be able to pay for the annual three-quarter of a trillion deficits Social Security alone will have in 2030, much less the incomprehensible \$7 trillion annual deficits it will have in 2070?

The arguments that are being made for the Reid amendment are the same as they were 2 years and \$500 billion ago, and they are still just as wrong. The first argument that proponents of the Reid amendment make is that when difficult spending decisions are made to bring the budget into balance (and we agree that those decisions will have to be made) they will be made in Social Security. This argument is nonsensical. In making spending cuts, program priorities will be weighed against each other and less popular programs will obviously be cut. We defy any Senator to name any program that has more political support than Social Security. Republicans proved last Congress that they at least can balance the budget without touching Social Security, because they proposed such a budget (which President Clinton vetoed). Perhaps proponents of the Reid amendment, all of whom are Democrats, mean that they think it is impossible for Democrats to balance the budget without raiding Social Security. The next argument made by proponents of the Reid amendment is that once the budget is balanced raids on Social Security will increase to keep the budget in balance. However, due to actuarial realities, the importance of the Social Security is only going to grow over the next several decades, making such raids even less likely in the future than they are now.

Still, some Senators claim that future budgetary realities will overcome the importance of this program due to the way in which its surpluses are handled. Every penny that is collected in Social Security taxes is instantly used to buy Treasury bonds, and the revenue is placed in the general fund of the Treasury. When Social Security checks are sent, Treasury bonds are redeemed. Thus, any surplus revenue that is collected by Social Security in any year is held in Treasury bonds. Because the Federal Government annually runs deficits, and has a huge debt to pay off in the event that it actually manages to run a surplus in any year, the money from Social Security that is used to buy Treasury bonds does not remain in the general fund--it is spent. Anyone who believes that the Social Security trust fund surpluses are held in cash in a vault somewhere is mistaken. Every penny is invested in what has been historically considered the safest security in the world--U.S. Treasury bonds. With or without the passage of this balanced budget amendment, this fact will remain true. Even most of the proponents of the Reid amendment insist on the continuation of this practice. At the same time though, they express alarm over this fact. They in one breath say that there is no safer investment than U.S. Treasury bonds, and in the next they say that it would be a mistake to trust the Government to redeem them without making sure that it does not have a pool of money set aside for that purpose.

However, the Reid amendment would not result in a pool of money being set aside, even if it were to work as advertised. This Balanced Budget Amendment will cap the debt held by the public in 2002, when it will be approximately \$4.7 trillion. If the behavior of Congress for the past 6 decades is any indication, and we believe it is, Congress will stay right at that debt limit. Under the most recent projections, between 2002 and 2011 Social Security will collect more in taxes than it will pay in outlays. Under the Reid amendment, assuming it worked as intended, the additional revenues would still be invested in Treasury bonds. The money would go into the general fund of the Treasury. Section 1 of this constitutional article forbids a year's outlays from exceeding a year's receipts, so the surplus funds would be used to reduce the debt held by the public. Our colleagues optimistically assume that the debt held by the public would be driven down steadily until Social Security started to run in the red. What they overlook is that the part of the balanced budget amendment that ultimately makes it enforceable is the debt limit in section 2. Have they forgotten the argument they made just yesterday? They said that the section 1 prohibition not to spend more in a year than is collected will not work because it will let Congress use estimates, and those estimates will be unduly optimistic. Our response was that the section 2

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debt limit will restrain Members' optimism. The Reid amendment would remove that restraint. Under the Reid amendment, assuming that it worked as intended, a \$100 billion Social Security surplus would reduce the debt held by the public by \$100 billion, and would enable Congress to make optimistic assumptions that result in a \$100 billion deficit that would drive the debt right back up. A three-fifths vote would not be needed to raise the debt limit because it would not be exceeded. Yesterday, our colleagues told us that if the balanced budget amendment passes as drafted Congress will make unrealistic estimates even if those estimates will immediately force it to vote on raising the debt limit under the supermajority vote requirements of section 2. Today they tell us that under the Reid amendment Congress would make \$706 billion in extra spending cuts or tax increases between 2002 and 2007 alone, and would make an estimated \$181 billion in spending cuts before 2002 in order to take Social Security off-budget by that year, and it would make those cuts based on realistic estimates even though there would be no consequences from making unrealistic, deficit-causing estimates. What sort of bizarre logic are they using? Congress cannot be trusted to make hard choices even if it will be forced to by a supermajority vote requirement, but if the supermajority vote requirement is removed, and the hard choices are made harder still by \$887 billion, it can then be trusted?

Unfortunately, this unlikely scenario is also the best-case scenario. Once Members found that two Social Security Trust funds were the one part of the budget that constitutionally did not need to be in balance, and were thus the one part of the budget on which they could irresponsibly spend to curry short-term political favor, those funds would be doomed. If we were to pass an amendment that would force Congress to restrain spending on every program save one, which program do our colleagues suppose would see an explosion in spending? Members could play such games as changing the retirement age for receiving benefits or changing the definition of the term "disabled." Even when such practices led to deficits in Social Security it would not constitutionally matter. Social Security, under the Reid amendment, would be the only program which Congress would constitutionally be permitted to bankrupt.

Members would also soon take it upon themselves to expand the definition of "Social Security." Over the years, the Social Security system has administered old age, disability, health, and welfare programs. Exactly which programs should fall under Social Security has never been a settled matter, and would not be settled by stitching a reference to it into the Constitution. Consequently, if Members were only allowed to deficit-spend on Social Security, then we are certain that they would suddenly discover that many new programs should be part of Social Security. With a mere simple majority vote, Congress could raid these off-budget trust funds for welfare, health care, or any other program that Congress decided should be called "Social Security." Passing the Reid amendment would thus both destroy the Social Security program and gut the Balanced Budget Amendment.

As if this damage were not enough, it would also weaken the Constitution. Though the length of the Reid amendment is short, the statutory language that it would grant constitutional status to is rather lengthy and is in constant flux. The two particular funds that it cites, together with their legislative histories, take up some 300 pages in the United States Code. Additionally, relevant judicial and administrative interpretations of this statutory language add literally millions of more words that would receive constitutional significance under the Reid amendment. All of this tremendous amount of verbiage defines the scope and operations of these trust funds, and none of it is writ in stone. With the Reid amendment, though, all of it would be writ in the Constitution. Specific statutory references have never before been written into the Constitution because any changes to those statutes would then be changes to the Constitution. Those changes would not be made by two-thirds majority votes in Congress with ratification by three-fourths of the States--they would be made by simple majority votes in Congress. Senators should be aware that the section of code defining these two trust funds has been amended more than 20 times over the years. Passing the Reid amendment would not stop it from being amended again; it would greatly encourage it. Even more egregiously, courts and executive branch officials could also make rulings on these statutes. Do our colleagues really want to make it possible for one district judge or a single regulatory official to make a decision on these trust funds that will carry the weight of an amendment to the Constitution of the United States?

Senator Reid believes in the merit of his amendment, and he is personally committed, and willing, to join in making the hard choices necessary to balance the budget. We believe he is sincere; we have considerably less confidence in many of his colleagues. Their intentions are not at issue, though; the facts are at issue. The facts are that the Reid amendment, however unintentionally, would destroy Social Security, gut the Balanced Budget Constitutional Amendment, and weaken the Constitution. Thus, we urge our colleagues in the strongest possible terms to defeat this amendment.

#### **Those opposing the motion to table contended:**

A few years ago, when we first raised the Social Security issue, we were virtually alone. We have held fast to our principles, though, and have diligently presented our case to the American people. The American people know the facts now, and they understand what is at stake, and as a result they are on our side by an overwhelming majority. According to a recent poll, three-fourths of them do not favor passing the Balanced Budget Amendment without an exemption for Social Security. Passing the Balanced Budget Amendment without the Reid amendment now would be a waste of time, because the States would never ratify it. Our colleagues need to rethink their opposition to this amendment.

The debate on this amendment over the years has been long and involved because the issue is of paramount importance. Social

Security is the most successful, important social program in America. The Social Security program was established in the depths of the Great Depression as a means of giving those Americans who survive into old age a degree of independence and dignity. After a lifetime of hard and productive work, Americans who can no longer work due to the infirmities of old age should not be forced into dependency. As one commentator observed, it is bad enough to grow old. Social Security checks are not, nor have they ever been, provided as a Government benefit--they are an earned benefit. The system is mandatory on most people, and it is operated by the Government, but it is actually an independent insurance system. General funds are never used to pay benefits--the system is a self-financing program that is operated by the Federal Government as a fiduciary trust.

In the early 1980s, when Social Security appeared to be headed for bankruptcy, Social Security taxes were increased greatly. Large annual surpluses have been generated since that time. By law those surpluses have been invested in Treasury bonds. The money from buying those bonds has gone into the general fund of the Treasury, and has then been spent. Every year, when the general fund has been exhausted, the Federal Government has borrowed more money by selling Treasury bonds to the private sector and foreign governments, and has continued spending. The amount of additional spending each year that has been financed by such borrowing has been counted as deficit spending. However, the amount borrowed from Social Security has never been counted as deficit spending, even though every penny of that amount has to be repaid the same as the money that has been borrowed from the private sector and foreign governments. In other words, the surpluses in the Social Security trust fund have been used to mask the true size of the deficit. In 1990, in an attempt to stop this practice, Congress changed its budget accounting rules by taking Social Security off-budget. This fact is routinely ignored by Members of both parties.

The situation in which we are now in is that we have a \$5.3 trillion and growing national debt that threatens to bankrupt our country, a Social Security trust fund that is full of IOU's instead of a cash surplus, and a law barring the use of Social Security funds to mask the size of the deficit that is ignored in all public claims about the size of the deficit. The situation is grim. Some of us who support the Reid amendment accept the arguments that Congress will not be able to balance the budget without a balanced budget amendment, while others of us do not believe it necessary. However, we are unanimous in our belief that if this particular amendment is passed unamended, its operations will damage the Social Security system.

Section 7 of the balanced budget amendment before us will require all receipts except those derived from borrowing, and all receipts except for those for repayment of debt principal, to be used in calculating the deficit. In explaining this section our colleagues have assured us that contributions to social insurance programs will be counted as receipts. Thus, from the outset, they are telling us that this constitutional amendment will overturn the 1990 law that took Social Security off-budget. In 2002, the budget will probably barely achieve balance, but that balance will be achieved by raiding Social Security.

The Reid amendment would totally remove Social Security from balanced budget calculations. Doing so would not get rid of the balanced budget requirement; it would strengthen it because it would force much greater savings to be made once Social Security surpluses could no longer be used to hide the deficit. Those surpluses would not be counted as revenue because they are not the Federal Government's--they belong to Social Security participants. Under the Reid amendment, when Social Security outlays began to exceed receipts, those accumulated surpluses could be drawn down without putting any pressure on the Federal budget. Under the balanced budget amendment as drafted, though, other Federal spending will have to be reduced, because no real surpluses will have been accumulated.

In arguing against the Reid amendment our colleagues have raised several objections that we do not believe have merit. First, they have charged that the Reid amendment introduces statutory law into the Constitution, and is thus inappropriate. In response, other constitutional amendments have been adopted that make reference to statutory laws in general, and the result has not been calamitous. For instance, the 21st amendment repealing prohibition refers to State laws on alcohol consumption. Even though the Reid amendment is unique in that no other amendment has ever been adopted that actually mentions a specific statute by name, we still think it is appropriate. Adoption of this balanced budget amendment will also mark the first time that fiscal policy has been added to the Constitution. Perhaps now is the time for firsts.

Several Senators have also argued that the Reid amendment would prove to be a loophole for evading the balanced budget requirement. They note that Congress could change the definitions for the terms "old age," "survivors," or "disability," thereby greatly expanding the scope of the Social Security program. However, the same complaint can be made about the language in the proposed balanced budget amendment. If our colleagues believe that Senators would be willing to play games with the definitions of the words in the Reid amendment, then they should also believe they will play the same games with the words in the balanced budget amendment. For our part, we do not expect that any such attempts would be made.

A constitutional amendment has been proposed because Members revere the Constitution; any language, however amended, will be obeyed without evasion. Social Security, the most effective social compact in American history, deserves constitutional reverence as much as does the principle of balancing the budget. We therefore oppose the motion to table.